# REPORT ON EXAMINATION

# OF THE

# KODIAK INSURANCE COMPANY

**820 BEAR TAVERN ROAD**

**WEST TRENTON, NEW JERSEY 08628-1021**

**AS OF**

**DECEMBER 31, 2008**

**NAIC COMPANY CODE 29750**

**NAIC GROUP CODE 3724**

FILED

**December 7, 2009**

Commissioner
Department of Banking & Insurance

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September 8, 2009

Honorable Neil N. Jasey
Commissioner of Banking and Insurance
State of New Jersey
20 West State Street
Trenton, New Jersey 08625

Commissioner:

A financial examination has been made of the condition and affairs of the:

**KODIAK INSURANCE COMPANY**

**820 BEAR TAVERN ROAD**

**WEST TRENTON, NEW JERSEY 08628-1021**

**NAIC GROUP CODE 3724**

**NAIC COMPANY CODE 29750**

Hereinafter referred to as the Company.

## SCOPE OF THE EXAMINATION

The financial condition examination was called by the Commissioner of Banking and Insurance of the State of New Jersey pursuant to the authority granted by N.J.S.A. 17:23-22.

The State of New Jersey's Department of Banking and Insurance ("NJDOBI") has adopted a modified NAIC short form report which will only address significant balance sheet accounts, adverse findings and other important regulatory information disclosed by the examination process. All other financial matters were reviewed and determined not to be material for discussion in this report.

The procedures outlined in the NAIC Financial Condition Examiners Handbook (the "Handbook"), and the NJDOBI Financial Condition Handbook were used as guides for the examination of the various accounts and records and included the use of direct verification as well as numerous tests, some complete and others on a partial basis. In determining the emphasis to be placed on specific accounts, consideration was given to the company's system of internal controls, the nature and size of each account and its relevance to solvency.

Based upon examination review, special emphasis was not assigned to any accounts. The following accounts were assigned standard emphasis:

Bonds
Common Stocks
Cash and Cash Equivalents
Uncollected Premiums and Agents' Balances in Course of Collection
Deferred Premiums, Agents' Balances and Earned but Unbilled Premiums
Losses
Loss Adjustment Expenses
Unearned Premiums
Gross Paid In and Contributed Surplus

The remaining balance sheet accounts were assigned either reduced emphasis or analytical review status for purposes of this examination.

In addition to the above balance sheet accounts, the following areas were also reviewed:

Compliance with Prior Report on Examination
History and Kind of Business
Management and Control
Holding Company System
Intercompany Agreements
Fidelity Bond and Other Insurance Coverages
Employee Welfare and Pension Plans
Territory and Plan of Operation
Reinsurance
Continuity of Operations
Treatment of Policyholders
Accounts and Records
Subsequent Events

This financial condition examination addressed the four year period from January 1, 2005, to December 31, 2008. During this period the Company's assets increased by $24,869,894 from $15,379,790 to $40,249,684, liabilities increased $16,539,462 from $9,414,750 to $25,954,212 and surplus as regards policyholders increased $8,330,432 from $5,965,040 to $14,295,472. The balances as of December 31, 2008 include examination changes made by this examination.

The surplus as regards policyholders as determined by this examination as of December 31, 2008 consisted of:

| | |
|---|---|
| Common capital stock | $2,400,750 |
| Gross paid in and contributed surplus | 8,149,250 |
| Unassigned funds | 3,745,472 |
| Surplus as regards policyholders | $14,295,472 |

At December 31, 2008, common capital stock was comprised of 1,650,000 authorized, issued and outstanding shares each with a $1.455 par value. All shares of the Company were owned by Kodiak's parent, Hermitage Insurance Company. This examination was conducted at the home office of the Company's parent, Hermitage Insurance Company at 1311 Mamaroneck Avenue, White Plains, New York 10605.

## COMPLIANCE WITH PRIOR REPORT ON EXAMINATION RECOMMENDATIONS

It was determined that four recommendations were made in the December 31, 2004 examination report:

(1) It was recommended that the Company execute an addendum to the reinsurance agreement with Guy Carpenter complying with the requirements of SSAP #62 paragraph #8(d). This is now a moot point because the Company no longer uses Guy Carpenter as a reinsurance intermediary.

(2) It was recommended that the Expense Sharing Agreement be amended to properly reflect the terms of the actual expense allocations. The Company is in compliance with this recommendation since the Expense Sharing Agreement was amended, and approved by the New York Department of Insurance and the New Jersey Department of Banking and Insurance to comply with this recommendation.

(3) It was recommended that the Company complete and test its business continuity plan. The Company did not fully comply with this recommendation. The Company completed the Business Continuity Plan, but the plan was not tested. It is again recommended that the Company test its business continuity plan and document the results of that test.

(4). It was again recommended that the Company record and document Gross Allocated Loss and Loss Adjustment Expense data. The Company is now in compliance with this recommendation.

## HISTORY AND KIND OF BUSINESS

The Company was incorporated under the laws of the State of New Jersey on September 2, 1986 and began business on July 7, 1987.

On April 7, 2005, the New Jersey Department of Banking and Insurance granted approval for Ontario Limited, Brascan Corporation and EdperPartners Limited to acquire control of Kodiak Insurance Company. The sale was completed on June 2, 2005.

The Company's Certificate of Authority, amended as of January 18, 2008, authorizes Kodiak to write the type of insurance specified in paragraphs “a”, “b”, “e”, “j”, “k”, “l” and “o” of N.J.S.A. 17:17-1 et seq.

At December 31, 2008, the Company had 1,650,000 shares of common stock at a par value of $1.455 per share. All issued and outstanding shares were owned by Hermitage Insurance Company ("Hermitage"), an insurance company domiciled in the State of New York, which is a wholly owned subsidiary of Brookfield Asset Management, a corporation domiciled in Canada.

The Company's main administrative office is located at 1311 Mamaroneck Avenue, Suite 135, White Plains, New York 10605. The Company's statutory home office is located at 820 Bear Tavern Road, West Trenton, New Jersey 08628-1021.

The registered agent upon whom process may be served is The Corporation Trust Company, 820 Bear Tavern Road, West Trenton, New Jersey 08628.

## MANAGEMENT AND CONTROL

At the Annual Shareholders Meeting of Hermitage Insurance Company held on June 10, 2008, the following named individuals were elected to the Board of Directors of Kodiak Insurance Company:

| Name and Address | Principal Occupation |
|---|---|
| Gordon J. Hoyt<br>139 Chestnut Ridge Road<br>Queensbury, New York 12504 | Retired |
| James A. Lambert, II<br>9 Cedar Avenue<br>Larchmont, New York 10538 | President,<br>Hermitage Insurance Company |
| George E. Myhal<br>71 Yorkleigh Avenue<br>Etobicoke, Ontario, CN M9P1YE | President & CEO,<br>Brookfield Asset Management, Inc. |
| Bruce K. Robertson<br>1 Saint Aubyns Crescent<br>Toronto, Ontario, CN M4N3K1 | Senior Executive,<br>Brookfield Asset Management, Inc. |

In 2008, the Company was negotiating its sale to CastlePoint Holdings, Ltd. In accordance with the Stock Purchase Agreement, dated as of August 27, 2008, by and among CastlePoint Reinsurance Company, Ltd., Hermitage Insurance Group, Inc. ("HIG, Inc."), and Brookfield US Corporation, every director tendered their resignation on December 12, 2008 to be effective as the same date that the Stock Purchase Agreement shall be effective. This Agreement became effective February 27, 2009.

N.J.S.A. 17:27A-4d(3) states as follows: "Not less than one-third of the directors of a domestic insurer, and not less than one-third of the members of each committee of the board of directors of any domestic insurer, shall be persons who are not officers or employees of that insurer or of any entity controlling, controlled by, or under common control with, that insurer and who are not beneficial owners of a controlling interest in the voting securities of that insurer or any such entity. At least one such person shall be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof."

N.J.S.A. 17:27A-4d(4) states as follows: "The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with, the insurer and who are not beneficial owners of a controlling interest in the voting securities of the insurer or any such entity. The committee shall be responsible for recommending the selection of independent certified public accountants, reviewing the insurer's financial condition, the scope and results of the independent audit and any internal audit, nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer and recommending to the board of directors the selection and compensation, including bonuses or other special payments, of the principal officers."

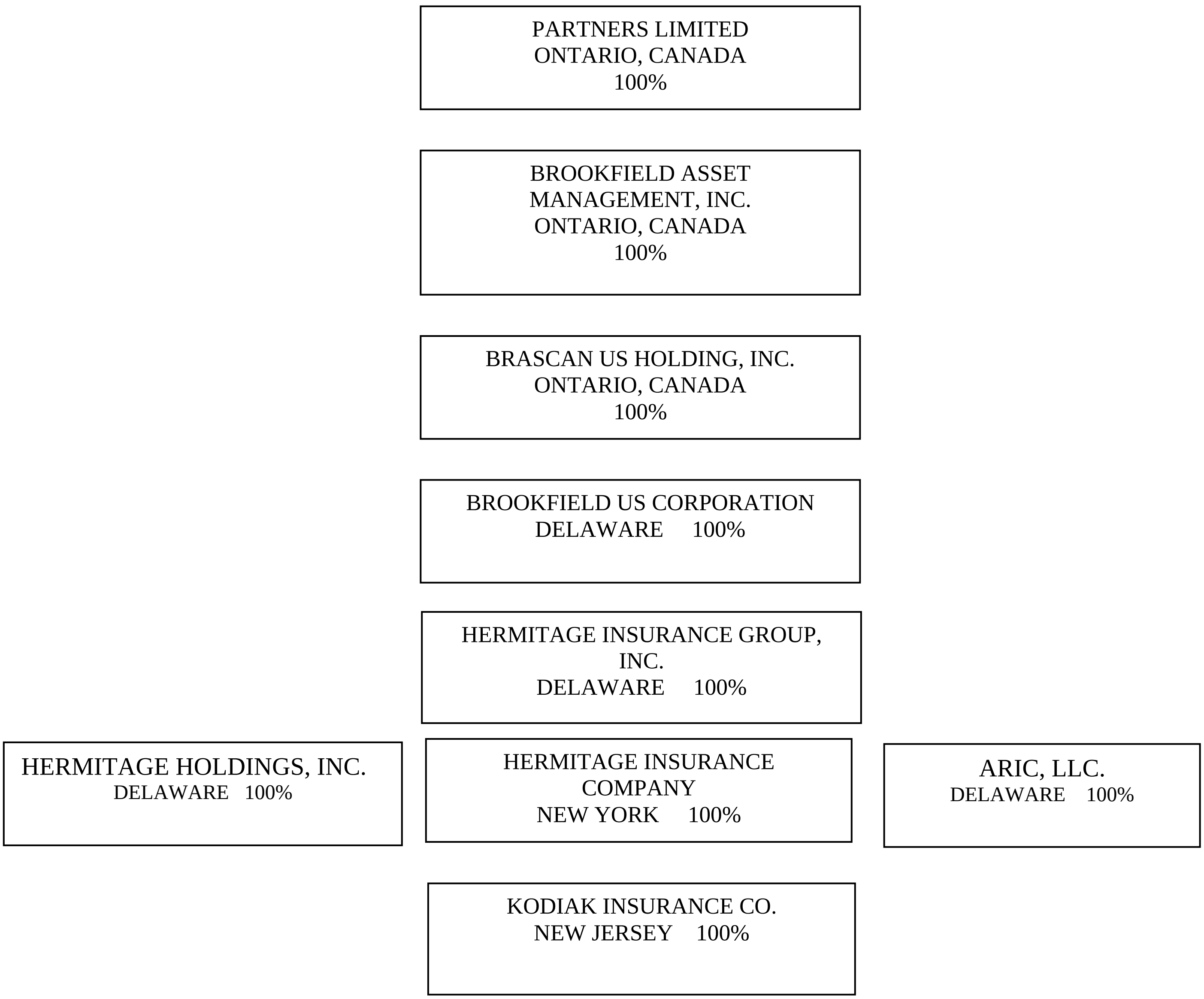
N.J.S.A. 17:27A-4d(5) states as follows: "The provisions of paragraphs (3) and (4) of this subsection d, shall not apply to a domestic insurer if the person controlling the insurer is an entity having a board of directors and committees thereof that substantially meet the requirements of those paragraphs."

It was determined that the controlling entity, Brookfield Asset Management did have a Board of Directors and committees thereof that satisfied the requirements of N.J.S.A. 17:27A-4d(3) and N.J.S.A. 17:27A-4d(4).

## HOLDING COMPANY SYSTEM

The Company is a member of an insurance holding company system as defined in N.J.S.A. 17:27 A-1. As of December 31, 2008 the Company was a member of the Hermitage Insurance Group and is a wholly owned subsidiary of Hermitage Insurance Company, a New York domiciled insurance company. Hermitage Insurance Company is a wholly owned subsidiary Brookfield Asset Management Inc., a Canadian domiciled corporation.

**ORGANIZATIONAL CHART AS OF 12/31/08**



## INTERCOMPANY AGREEMENTS

The Company had the following intercompany agreements in effect at the examination date:

Data Processing Service Agreement

Effective January 1, 2006 a Data Processing Service Agreement between the Company, Hermitage Insurance Company ("Hermitage") and Vantage Data Corporation ("Vantage"). The agreement states that Vantage will supply the Company and Hermitage with EDP services including reports specifically agreed to by the two parties. The Company agreed to pay Vantage eight thousand five hundred dollars ($8,500) a month for licensing of Vantage's system and EDP service. Charges for reports and services requested by the Company other than those specifically agreed upon are at Vantage's prevailing rates. The Company pays the cost plus taxes, if any, of all forms, diskettes, or other supplies imprinted with the Company's name or specifically designed for the Company's use; any shipping or postage expense incurred by Vantage in forwarding reports or other materials to the Company as well as installation charges which shall be computed on a time and material basis. It was determined that this Data Processing Service Agreement was terminated effective June 5, 2006. It was noted that a new Service Agreement between Hermitage and Vantage was entered into, but the Company was not a party to this new Service Agreement.

Expense Sharing Agreement

Effective January 1, 2006, the members of the Hermitage Insurance Group, including Kodiak Insurance Company, and Vantage Data Corporation, entered into an Expense Sharing Agreement. Included in this Expense Sharing Agreement was a provision that stated that this agreement shall terminate upon any of the participants of this agreement becoming non-affiliated. Effective June 5, 2006, Vantage was sold, thereby becoming non-affiliated.

The allocation method for shared expenses shall be consistent with the provisions of New York State Insurance Department Regulation 30 and in accordance with NAIC SSAP #70 – Allocation of Expenses. Under this agreement, the affiliated corporations shall each pay their proportionate share of the rent for office space based upon the square footage used by each corporation and the current charge per square foot in the lease. The affiliated corporations agree that each shall pay their portion of all other overhead based upon their proportionate share of square footage in the office space and their proportionate share of salaries of shared employees based upon annual evaluations. Monthly reports of amounts due on expenses shared shall be rendered within thirty (30) days of the last day of each month and remittances will be made by each affiliated corporation within fifteen (15) days of receipt of said reports.

It was determined that this agreement was not amended to reflect any changes caused by the June 5, 2006 sale of Vantage Data Corporation.

It is hereby recommended that a new Expense Sharing Agreement between the Company and Hermitage be entered into. It is further recommended that this new Expense Sharing Agreement include an additional provision related to the allocation of fees for EDP services.

Tax Sharing Agreement

Effective January 1, 2000, a Tax Sharing Agreement was entered into between Queensway Holding, Inc. and Affiliated Companies, including Kodiak Insurance Company.

This Tax Sharing Agreement included the following provision, "The tax liability of the group shall be apportioned among the members of the group in accordance with the ratio of the consolidated taxable income to each member of the group having taxable income bears to consolidated taxable income, but under no circumstances will any affiliate pay more than if they had filed on a separate basis."

Effective June 2, 2005, Hermitage, the Company's immediate parent, was sold by Queensway Holding, Inc. to the Brascan Corporation. The Brascan Corporation was subsequently changed to Brookfield Asset Management, Inc. ("Brookfield"). It was determined that a new Tax Sharing Agreement between the Company and its new ownership was not executed. The Brascan Corporation / Brookfield Assets Management, Inc. filed consolidated returns, which included Kodiak Insurance Company, for each of the years covered by this examination.

It is hereby recommended that a Tax Sharing Agreement be executed by and between the Company and its parent.

## FIDELITY BOND AND OTHER INSURANCE COVERAGES

It was determined that the Company had fidelity bond coverage (Form FIB #25) issued by The Guarantee Company of North America for $500,000 (Canadian Dollars). Based on the exchange rate of .816993 as of December 31, 2008, the $500,000 (Canadian Dollars) was the equivalent of $408,496 (U.S. Dollars). This meets the $400,000 suggested minimum amount recommended by the National Association of Insurance Commissioners at December 31, 2008.

The Company's Parent, Hermitage Insurance Company, had various policies in-force at December 31, 2008 that were issued by The Hartford Fire Insurance Company. These policies include: an automobile liability policy with a combined single limit of $1,000,000; a liability umbrella policy with an aggregate limit of $5,000,000; a workers compensation and an employment practices liability policy; a comprehensive all risk property policy designed to safeguard its buildings and the contents held within; a Directors and Officers liability policy to protect the Company's officers, directors and employees from possible risks/perils, which could arise during the course of the Company's business.

## EMPLOYEE WELFARE AND PENSION PLAN

At December 31, 2008, the Company had no employees or facilities. However, management, operations, and claim services are provided under a management agreement with members of the Hermitage Insurance Group, as discussed in this report under the heading "Intercompany Agreements". All employee related expenses, including welfare and pension benefits, are allocated to the Company in accordance with the terms of the Expense Sharing Agreement.

## TERRITORY AND PLAN OF OPERATION

At December 31, 2008 the Company was licensed in the states of New Jersey, Alabama, Georgia, Indiana, Kentucky, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee, and Virginia. All of the Company's premiums are from commercial risks. The primary lines of business written are commercial multiple peril and commercial auto liability, with lesser amounts of other liability, product liability, and auto physical damage. The Company ceased writing new Surety business in 1995, and that business is in run off at this time.

The Company's business is produced primarily by approximately forty-five independent retail brokers in the State of New Jersey. The Company uses ISO forms for all lines with the exception of Business Owners' Policy ("BOP") policies which uses MSO forms.

The Company has maintained its focus on writing small commercial accounts and developing long-term relationships with retail brokers. In addition, the Company has leveraged the expertise of its parent, Hermitage, to focus on "account underwriting" and offering general liability lines to its traditional client base. In this regard, as

Kodiak seeks to diversify its existing book into other lines of business on a limited basis, it will utilize Hermitage's underwriting expertise in those areas. Also, being affiliated with Hermitage has provided Kodiak with improved operating efficiencies, claims management, accounting regulatory reporting and data processing capabilities.

## REINSURANCE

The Company assumes business from the mandatory Unsatisfied Claim and Judgment Fund ("UCJF"). Additionally, on February 8, 2008, Kodiak entered into a 100% Quota Share Reinsurance Agreement with the American Resources Insurance Company ("ARIC"). In accordance with the agreement, the Company assumes all policies written by ARIC, excluding those issued in the Auto Warranty line of business, with an effective date on or after January 1, 2008.

On July 31, 2008, Kodiak entered into an additional 100% Quota Share Reinsurance Agreement with ARIC. In accordance with the agreement, Kodiak assumed the unearned premium on all policies in force at October 1, 2007, excluding those issued in the Auto Warranty line of business, and also assumes the losses arising under such policies occurring on or after October 1, 2007. This agreement was approved by the NJDOBI on July 17, 2008 and the State of Alabama Insurance Department on July 28, 2008.

In the ordinary course of business, the Company reinsures a significant portion of its policies with reinsurance companies through excess of loss agreements. The Company maintains agreements with Swiss Reinsurance America Corporation and several reinsurance pools through the Company's reinsurance intermediary Benfield, Inc. The Company cedes losses in excess of $250,000 and maintains multiple layers with aggregate coverage limits up to $45,000,000. Effective May 1, 2006, a Broker Authorization Contract was entered between the Company, and Benfield, Inc. their reinsurance intermediary. It was determined that this Broker Authorization Contract contained all of the provisions that reinsurance intermediary contracts are required to contain pursuant to N.J.S.A. 17:22E-6.

The Company also maintains a facultative Excess and Umbrella Liability Quota Share program with Swiss Reinsurance America Corporation. The first layer of this program provides blanket certificates for amounts up to $1,000,000. The Company cedes 95% of this direct premium. The Company warrants that it shall retain net for its own account 5% of its Ultimate Net Liability of this first layer. The second layer of this program the Company cedes 100% of its direct premium for policies greater than $1,000,000 and up to $5,000,000.

## CONTINUITY OF OPERATIONS

It was determined that the Company's by-laws provide for the filling of vacancies in the Board of Directors and the succession of officers.

In the prior Report on Examination as of December 31, 2004, a finding was noted that the Company's Business Continuity Plan was incomplete and does not appear to have been tested in whole or in part. It was recommended that the Company complete and test its business Continuity Plan. During the current examination, the examiner determined that the Company has established a Disaster Recovery Plan (Business Continuity Plan). However, the Company has not tested their Disaster Recovery Plan to verify its adequacy and effectiveness.

It is hereby recommended that the Company test its Disaster Recovery Plan, document the results of their test of their Disaster Recovery Plan, and make any modifications deemed necessary as the result of their test of the Disaster Recovery Plan.

## TREATMENT OF POLICYHOLDERS

N.J.S.A. 17:29B-4(10) requires an insurer to maintain a complete record of all consumer complaints. It was determined that the Company's Complaint Log recorded less complaints than the number of consumer complaints received by the Consumer Affairs Division of the NJDOBI. Since the Consumer Affairs Division of the NJDOBI forwarded all complaints to the Company for response, and the Company did not record all of the complaints forwarded by the Consumer Affairs Division of the NJDOBI, it was determined that the Company did not maintain a complete log of complaints as required by N.J.S.A. 17:29B-4(10).

It is hereby recommended that Kodiak comply with N.J.S.A. 17:29B-4(10) requiring an insurer to maintain a complete record of all consumer complaints received since its previous examination.

## ACCOUNTS AND RECORDS

During 2007, the Company migrated from its General Ledger system to a financial model system driven primarily by Excel spreadsheets. As of December 31, 2008, the Company had no formal General Ledger system. Policyholder services are reliant on the Company's Vantage computer system. Monthly results from operations are manually keyed into the financial model. Journal entries are made from the financial model and are categorized as either standard or non-standard entries. Standard entries consist of any recurring monthly entries. Non-standard entries relate to specific entries that do not occur on a regular monthly basis.

Cash receipts and disbursements are not recorded via journal entries in the financial model. The Accounting Department runs monthly reports of cash receipts and disbursements. The totals from the monthly cash receipts and disbursement reports are manually entered into the financial model.

A trial balance is created monthly by pulling together the information from the financial model, including the standard and non-standard entries, and the manual cash receipts and disbursements entries. This trial balance is used to complete the Quarterly Statements and Annual Statements. This process requires significant manual intervention which is susceptible to human error.

It is hereby recommended that the Company implement a more automated General Ledger system that is less susceptible to human error.

FINANCIAL STATEMENTS AND OTHER EXHIBITS

Exhibit A – Comparative Statement of Assets, Liabilities, Surplus and Other Funds at December 31, 2008

Exhibit B – Underwriting and Investment Exhibit for the Four Year Period Ending December 31, 2008

Exhibit C – Capital and Surplus Account for the Period Under Examination

EXHIBIT A

Comparative Statement of Assets, Liabilities, Surplus and Other Funds at December 31, 2008

| Assets | Balance per Company at 12/31/08 | Current Examination at 12/31/08 | Examination Change | NOTE |
|---|---|---|---|---|
| Bonds | $10,437,122 | $10,437,122 | | 1 |
| Common stocks | $457,204 | $457,204 | | |
| Cash and cash equivalents | 23,345,032 | 23,345,032 | | |
| Receivables for securities | 62 | 62 | | |
| Subtotal, cash and invested assets | $34,239,420 | $34,239,420 | | |
| | | | | |
| Investment income due & accrued | 112,135 | 112,135 | | |
| Uncollected premium and agents' balances | 2,105,582 | 2,105,582 | | |
| Deferred premiums | 3,052,914 | 3,052,914 | | |
| Amounts recoverable from reinsurers | 301,683 | 301,683 | | |
| Net deferred tax asset | 805,512 | 409,569 | 395,943 | 2 |
| Guaranty funds receivable or on deposit | 28,381 | 28,381 | | |
| Receivable from parent, sub. & aff. | - | - | | |
| Aggr. write-ins for other than inv. assets | - | - | | |
| | | | | |
| Total assets | $40,645,627 | $40,249,684 | | |

| Liabilities, Surplus and Other Funds | 12/31/2008 | 12/31/2008 | | |
|---|---|---|---|---|
| Losses | $8,843,753 | $8,843,753 | | 3 |
| Reinsurance payable on paid losses and LAE | 1,426,318 | 1,426,318 | | |
| Loss adjustment expenses | 1,985,210 | 1,985,210 | | 3 |
| Commissions payable, contingent commissions | 71,345 | 71,345 | | |
| Other expenses | 257,261 | 257,261 | | |
| Taxes, licenses and fees | 334,911 | 787,651 | (452,740) | 5 |
| Current federal income tax | - | - | | |
| Unearned premiums | 9,246,822 | 9,277,537 | (30,715) | 4 |
| Advance premiums | 62,316 | 62,316 | | |
| Ceded reinsurance premiums pay. | 3,212,714 | 3,075,580 | 137,134 | 4 |
| Amounts withheld or retained by company | 7,480 | 7,480 | | 6 |
| Drafts outstanding | - | - | | |
| Payable to parent, sub & aff. | 146,951 | 146,951 | | |
| Aggr. write-ins for liabilities | 12,810 | 12,810 | | |
| | | | | |
| Total liabilities | $25,607,891 | $25,954,212 | | |
| | | | | |
| Common capital stock | $2,400,750 | $2,400,750 | | 7 |
| Gross paid-in surplus | 8,149,250 | 8,149,250 | | 7 |
| Unassigned funds | 4,487,736 | 3,745,472 | 742,264 | 7 |
| Surplus as regards policyholders | $15,037,736 | $14,295,472 | | |

EXHIBIT B

UNDERWRITING AND INVESTMENT EXHIBIT FOR THE FOUR YEAR PERIOD ENDING
December 31, 2008

| | 2005 | 2006 | 2007 | 2008 Per Annual Statement | 2008 Per Examination |
|---|---|---|---|---|---|
| Underwriting Income | | | | | |
| Premiums earned | $ 3,767,485 | $ 3,511,077 | $ 2,983,342 | $ 20,138,803 | $ 20,245,222 |
| Deductions: | | | | | |
| Losses incurred | $ 1,445,968 | $ 950,019 | $ 594,252 | $ 11,346,054 | $ 11,346,054 |
| Loss adjustment expenses incurred | 859,359 | 448,238 | (451,167) | 1,932,441 | 1,932,441 |
| Other underwriting expenses | 1,345,904 | 1,572,796 | 1,320,706 | 8,114,907 | 8,567,647 |
| Total underwriting deductions | $ 3,651,231 | $ 2,971,053 | $ 1,463,791 | $ 21,393,402 | $ 21,846,142 |
| Net underwriting gain or (loss) | $ 116,254 | $ 540,024 | $ 1,519,551 | $ (1,254,599) | $ (1,600,920) |
| Investment Income | | | | | |
| Net investment income earned | 543,153 | 613,488 | 665,517 | 735,435 | 735,435 |
| Net realized capital gains | 102,804 | 2,015 | 7,326 | 5,236 | 5,236 |
| Net investment gain or (loss) | $ 645,957 | $ 615,503 | $ 672,843 | $ 740,671 | $ 740,671 |
| Other Income | | | | | |
| Premium balance charged off | 6,829 | 3,516 | (4,439) | (1,508) | (1,508) |
| Finance and service charges | 7,208 | 8,510 | 8,010 | 25,079 | 25,079 |
| Miscellaneous income | (993) | (20,691) | (6,462) | 9,584 | 9,584 |
| | $ 13,044 | $ (8,665) | $ (2,891) | $ 33,155 | $ 33,155 |
| Net income before dividends | $ 775,255 | $ 1,146,862 | $ 2,189,503 | $ (480,773) | $ (827,094) |
| Dividends to policyholders | - | - | - | - | - |
| Net income before federal inc. tax | $ 775,255 | $ 1,146,862 | $ 2,189,503 | $ (480,773) | $ (827,094) |
| Federal income taxes incurred | (103,603) | 32,258 | - | (181,152) | (181,152) |
| Net Income | $ 878,858 | $ 1,114,604 | $ 2,189,503 | $ (299,621) | $ (645,942) |

**Exhibit C**

CAPITAL AND SURPLUS ACCOUNT FOR THE PERIOD UNDER EXAMINATION

| | 2005 | 2006 | 2007 | 2008 Per Annual Statement | 2008 Per Examination |
|---|---|---|---|---|---|
| Capital and Surplus Account | | | | | |
| Surplus, December 31 prior year | $5,965,040 | $6,749,945 | $7,949,924 | $15,257,997 | $15,257,997 |
| | | | | | |
| Gains and Losses in Surplus | | | | | |
| Net income | 878,858 | 1,114,604 | 2,189,503 | (299,621) | (645,942) |
| Change in net unrealized capital gain | (57,800) | 53,274 | 16,355 | (173,952) | (173,952) |
| Change in net deferred income tax | 104,747 | (207,606) | (30,453) | 870,024 | 870,024 |
| Change in non-admitted assets | (140,900) | 239,707 | 32,668 | (616,712) | (1,012,655) |
| Capital Changes: Paid in | 0 | 0 | 5,100,000 | 0 | 0 |
| Surplus adjustments: Paid in | 0 | 0 | 0 | 0 | 0 |
| | | | | | |
| Dividends to stockholders | 0 | 0 | 0 | 0 | 0 |
| Aggregate write-ins | 0 | 0 | 0 | 0 | 0 |
| | | | | | |
| Change in surplus | $784,905 | $1,199,979 | $7,308,073 | ($220,261) | ($962,525) |
| | | | | | |
| Surplus as regards policyholders | $6,749,945 | $7,949,924 | $15,257,997 | $15,037,736 | $14,295,472 |

## RECONCILIATION WITH ANNUAL STATEMENT

The following represents a reconciliation of the amounts filed in the December 31, 2008 Annual Statement to the amounts presented herein:

| | Total Admitted Assets | Total Liabilities | Surplus as Regards Policyholders | Total Liabilities Capital and Surplus | Net Income (Loss) |
|---|---|---|---|---|---|
| As filed | $40,645,627 | $25,607,891 | $15,037,736 | $40,645,627 | ($299,621) |
| Taxes, Licenses and Fees | | 452,740 | (452,740) | | (452,740) |
| Change in Non-admitted Assets | (395,943) | | (395,943) | (395,943) | |
| Unearned Premiums | | 30,715 | (30,715) | | (30,715) |
| Ceded Reinsurance Premiums Payable | | (137,134) | 137,134 | | 137,134 |
| As presented herein | $40,249,684 | $25,954,212 | $14,295,472 | $40,249,684 | ($645,942) |

## NOTES TO THE FINANCIAL STATEMENTS

Note 1 - BONDS

Kodiak Insurance Company reported "Bonds" in the amount of $10,437,122 at December 31, 2008 as summarized:

| | Par Value | Actual Cost | Admitted Value |
|---|---|---|---|
| Government | $1,685,000 | $1,799,130 | $1,773,262 |
| Special Revenue | 4,316,865 | 4,317,633 | 4,310,053 |
| Public Utilities | 300,000 | 321,811 | 309,791 |
| Industrial and Miscellaneous | 3,989,857 | 4,104,326 | 4,044,016 |
| Total | $10,291,722 | $10,542,900 | $10,437,122 |

N.J.S.A. 17:24-12(g) requires that securities of an insurer be held within the geographical limits of the State of New Jersey or by an authorized custodian. With the exception of those securities that are held as special deposits with state insurance departments, all securities were held by Company's custodian, Brown Brothers Harriman, Jersey City, New Jersey, 07310 at December 31, 2008. Since Brown Brothers Harriman, is located within the geographical limits of the State of New Jersey, Brown Brothers Harriman is deemed to be an authorized custodian. Therefore, the Company was in compliance with N.J.S.A. 17:24-12(g) as of December 31, 2008.

The asset was verified by the performance of additional procedures which included confirmations and a determination that the investments of the Company were valued in accordance with the investment regulations of the State of New Jersey and NAIC SSAP No. 26 "Bonds".

The Company could not provide adequate evidence that prepaid assumptions for loan-backed securities are reviewed on a periodic basis in accordance with SSAP# 43. It is hereby recommended that the Company perform periodic reviews and maintain documentation of such reviews of prepaid assumptions for loan-backed securities, as required by SSAP #43.

The securities of the Company were determined to be permissible investments as defined by N.J.S.A. 17:24-1. These securities were valued in accordance with N.J.S.A. 17:24-5, 17:24-5.1 and NAIC SSAP No. 26 "Bonds".

Note 2- NET DEFERRED TAX ASSET

The Company's Net deferred tax asset was recalculated and determined to be $409,569. This represents a decrease of the Net deferred tax asset of $395,943 from the $805,512 that was reported by the Company in the 2008 Annual Statement.

Note 3- LOSSES AND LOSS ADJUSTMENT EXPENSES

At December 31, 2008, the Company reported and this examination verified $8,843,753 for losses and $1,985,210 for loss adjustment expenses.

The Actuarial Unit of the NJDOBI reviewed the 12/31/2008 Actuarial Report that was prepared by the Company's actuary Towers Perrin. The Actuarial Unit of the NJDOBI also performed an independent review of the loss and LAE reserves of the Company as of December 31, 2008. The Actuarial Unit of the NJDOBI recommended accepting the Company's booked gross and net loss and LAE reserves as of December 31, 2008, without adjustment.

Note 4- CEDED REINSURANCE PREMIUMS PAYABLE AND UNEARNED PREMIUMS

During 2009, the Company had a settlement of the year-end 2008 Reinsurance balances. As a part of that settlement, it was determined that the amount that the Company reported as a liability for Ceded Reinsurance Premiums Payable was overstated by $137,134 and the amount that the Company reported as a liability for Unearned Premiums was understated by $30,715. The net effect was an increase in Surplus of $106, 419.

Note 5 – TAXES, LICENSES AND FEES

The Taxes, licenses and fees liability was determined to be $787,651. This represents an increase in the Taxes, licenses and fees liability of $452,740 from the $334,911 that was reported by the Company in the 2008 Annual Statement. This $452,740 increase in the liability was comprised of: an increase in Payroll taxes of $124,874; an increase in Premium taxes of $252,607; and an increase in the accrual for State examination fees of $75,259.

Note 6 – AMOUNTS WITHHELD OR RETAINED BY COMPANY FOR ACCOUNT OF OTHERS

In reviewing this item, it was noted that the Company did not prepare and submit abandoned property reports to the New Jersey State Treasurer as required by statute until after these documents were requested by examiners.

It is hereby recommended that the Company annually prepare and submit abandoned property reports to the New Jersey State Treasurer as required by N.J.S.A. 46:30 B-16.

Note 7 - CAPITAL AND SURPLUS

As of December 31, 2008, this examination determined the Company's capital and surplus was as follows:

| | |
|---|---|
| Common capital stock | $2,400,750 |
| Gross paid in and contributed surplus | 8,149,250 |
| Unassigned funds | 3,745,472 |
| Surplus as regards policyholders | $14,295,472 |

**RECOMMENDATIONS**

**Page**

**7** **INTERCOMPANY AGREEMENTS**

The Expense Sharing Agreement between the Company, Hermitage and Vantage includes a provision that the agreement shall automatically terminate upon any of the participants becoming non-affiliated. Effective June 5, 2006, Vantage was sold, thereby becoming a non-affiliate. It was determined that this agreement was not amended to reflect any changes caused by the June 5, 2006 sale of Vantage Data Corporation.

It is hereby recommended that a new Expense Sharing Agreement between the Company and Hermitage be entered into. It is further recommended that this new Expense Sharing Agreement include an additional provision related to the allocation of fees for EDP services.

**8** **INTERCOMPANY AGREEMENTS**

Effective January 1, 2000, a Tax Sharing Agreement was entered into between Queensway Holding, Inc. and Affiliated Companies, including Kodiak Insurance Company.

Effective June 2, 2005, Hermitage, the Company's immediate parent, was sold by Queensway Holding, Inc. to the Brascan Corporation. The Brascan Corporation was subsequently changed to Brookfield Asset Management, Inc. It was determined that a new Tax Sharing Agreement between the Company and its new ownership was not executed. The Brascan Corporation / Brookfield Assets Management, Inc. filed consolidated returns, which included Kodiak Insurance Company, for each of the years covered by this examination.

It is hereby recommended that a Tax Sharing Agreement be executed by and between the Company and its parent.

**9** **CONTINUITY OF OPERATIONS**

In the prior Report on Examination as of December 31, 2004, a finding was noted that the Company's Business Continuity Plan was incomplete and does not appear to have been tested in whole or in part. It was recommended that the Company complete and test its business Continuity Plan. During the current examination, the examiner determined that the Company has established a Disaster Recovery Plan (Business Continuity Plan). However, the Company has not tested their Disaster Recovery Plan to verify its adequacy and effectiveness.

It is again recommended that the Company test its Disaster Recovery Plan, document the results of their test of their Disaster Recovery Plan, and make any modifications deemed necessary as the result of their test of the Disaster Recovery Plan.

**9** **TREATMENT OF POLICYHOLDERS**

N.J.S.A. 17:29B-4(10) requires an insurer to maintain a complete record of all consumer complaints. It was determined that the Company's Complaint Log recorded less complaints than the number of consumer complaints received by the Consumer Affairs Division of the NJDOBI. Since the Consumer Affairs Division of the NJDOBI forwarded all complaints to the Company for response, and the Company did not record all of the complaints forwarded by the Consumer Affairs Division of the NJDOBI, it was determined that the Company did not maintain a complete log of complaints as required by N.J.S.A. 17:29B-4(10).

It is hereby recommended that Kodiak comply with N.J.S.A. 17:29B-4(10) requiring an insurer to maintain a complete record of all consumer complaints received since its previous examination.

**10 ACCOUNTS AND RECORDS**

As of December 31, 2008, the Company had no formal General Ledger system. The Company relied upon a financial model system driven primarily by Excel spreadsheets. This process requires significant manual intervention which is susceptible to human error.

It is hereby recommended that the Company implement a more automated General Ledger system that is less susceptible to human error.

**16 BONDS**

The Company could not provide adequate evidence that prepaid assumptions for loan-backed securities are reviewed on a periodic basis in accordance with SSAP# 43.

It is hereby recommended that the Company perform periodic reviews and maintain documentation of such reviews of prepaid assumptions for loan-backed securities, as required by SSAP #43.

17 **AMOUNTS WITHHELD OR RETAINED BY COMPANY FOR ACCOUNT OF OTHERS**

In reviewing this item, it was noted that the Company did not prepare and submit abandoned property reports to the New Jersey State Treasurer as required by statute until after these documents were requested by examiners.

It is hereby recommended that the Company annually prepare and submit abandoned property reports to the New Jersey State Treasurer as required by N.J.S.A. 46:30 B-16.

## SUBSEQUENT EVENTS

On August 27, 2008, the shareholders of HIG signed a Stock Purchase Agreement ("Agreement") with CastlePoint Reinsurance Company, Ltd. ("CastlePoint"), a subsidiary of Tower Group, Inc. ("Tower"), to sell all outstanding shares of HIG to CastlePoint. The transaction received all of the required regulatory approvals and closed effective February 27, 2009. Under the terms of the Agreement dated August 27, 2008 and amended February 23, 2009, Tower acquired HIG for approximately $130 million.

On February 27, 2009, the sole shareholder, Hermitage Insurance Company, by unanimous written resolution appointed these named individuals to the Kodiak Insurance Company Board of Directors:

| Name and Address | Principal Occupation |
|---|---|
| Francis M. Colalucci<br>50 East 89th Street<br>New York, New York 10128 | Chief Financial Officer, Senior Vice<br>President, Treasurer, and Secretary<br>Tower Insurance Co. of New York |
| Michael H. Lee<br>65 East 90th Street<br>New York, New York 10128 | Chairman of the Board, Chief<br>Executive Officer, and President<br>Tower Insurance Co. of New York |
| Elliot S. Orol<br>200 East 82nd Street, #28G<br>New York, New York 10028 | Senior Vice President and General Counsel<br>Tower Insurance Co. of New York |
| Joel S. Weiner<br>155 West 68th Street<br>New York, New York 10023 | Chief Financial Officer and Senior Vice President<br>CastlePoint Insurance Company |

On February 27, 2009, the sole shareholder, Hermitage Insurance Company, by unanimous written resolution appointed these named individuals as officers of Kodiak Insurance Company:

| Name | Title |
|---|---|
| Francis M. Colalucci | Chief Financial Officer, Senior Vice President and Treasurer |
| Michael H. Lee | President |
| Gary S. Maier | Vice President |
| Elliot S. Orol | Secretary |
| Joel S. Weiner | Senior Vice President |

## CONCLUSION

The examination of Kodiak Insurance Company as of December 31, 2008 was conducted under the supervision of the State of New Jersey, Department of Banking and Insurance, by the undersigned.

The courteous cooperation and assistance extended during the course of this examination by the Officers of the Company and members of the office staff are hereby acknowledged.

Respectfully submitted,

/S/

________________________________________

Dennis Kluk, CFE
Examiner-In-Charge
Representing the New Jersey Department of Banking and Insurance

**KODIAK INSURANCE COMPANY**

I, Boris Privman, FCAS, MAAA, Managing Property and Casualty Actuary for the New Jersey Department of Banking and Insurance, have reviewed the actuarial report completed by the Company's outside actuary, Towers Perrin, of the December 31, 2008 reported loss and loss adjustment expense reserves for Kodiak Insurance Company. The Actuarial Unit of the NJDOBI also performed an independent review of the loss and LAE reserves of the Company as of December 31, 2008. Based upon this review, the Company's booked gross and net loss reserves are accepted without adjustments.

Actuarial findings as stated above and in this examination report are the sole responsibility of the New Jersey Department of Banking and Insurance's Property and Casualty Actuarial Unit of the Office of Solvency Regulation.

Respectfully submitted,

/S/

Boris Privman, FCAS, MAAA
Managing Property and Casualty Actuary

I, Dennis Kluk, do solemnly swear that the foregoing report of examination is hereby represented to be a full and true statement of the condition and affairs of Kodiak Insurance Company as of December 31, 2008 to the best of my information, knowledge and belief.

Respectfully submitted,

/S/

Dennis Kluk, CFE
Examiner-In-Charge
Representing the New Jersey Department of Banking and Insurance

State of New Jersey
County of Mercer

Subscribed and sworn to before me, on this 19th day of October, 2009

Signed,

/S/
Sheila M. Tkacs
Notary Public of the State of New Jersey
My commission expires on: July 2010